



31 MAR 2008

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In re Application of	:	
Superti-Fuga et al.	:	
Application No.: 10/555,896	:	DECISION
PCT No.: PCT/EP04/004883	:	
Int. Filing Date: 07 May 2004	:	ON
Priority Date: 07 May 2003	:	
Attorney Docket No.: 50125/107001	:	PETITION
For: Process For The Identification	:	
Of New Medical Targets	:	

This is in response to the petition under 37 CFR 1.182 filed on 21 March 2008.

### BACKGROUND

This international application was filed on 07 May 2004, claimed an earlier priority date of 07 May 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 18 November 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 07 November 2005. Applicants filed *inter alia* the basic national fee on 07 November 2005.

### DISCUSSION

Applicants petition under 37 CFR 1.182 "to have the foreign priority information corrected in the above-referenced application." Applicants note that "the correct priority document should have been EP 03010290.9 filed on May 7, 2003," and that on "December 9, 2004, a request for correction of priority in the international phase was filed. Since the 16-month deadline for such correction had already passed, this request was rejected on February 21, 2005." Applicants state that these events led to incorrect priority information appearing in the published international application.

35 U.S.C. 365(b) provides that

In accordance with the conditions and requirements of section 119(a) of this title *and the treaty and the Regulations*, an international application designating the United States shall be entitled to the right of priority based on a prior foreign application, or a prior international application designating at least one country other than the United States (*italics added*)

while 37 CFR 1.55(a)(1)(ii) states that

In an application that entered the national stage from an international application after compliance with 35 U.S.C. 371, the claim for priority must be made during the pendency of the application and within the time limit set forth in the PCT and the Regulations under the PCT.

Foreign priority in the national stage is governed by 35 U.S.C. 365(b), which requires that the foreign priority claim comply with "the treaty and the Regulations" under the treaty (PCT). The time period for making the priority claim is specifically addressed by 37 CFR 1.55(a)(1)(ii), which requires that the claim be made "within the time limit set forth in the PCT and the Regulations under the PCT." In the instant case, the time period for addition or correction of the priority claim under PCT Rule 26*bis*.1 has expired. As such, it would not be appropriate on the basis of the present record to grant the requested correction of the priority claim.

### **DECISION**

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration

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